



Washington State Drug Offender Sentencing Alternative Statistical Summary

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INTRODUCTION

The Drug Offender Sentencing Alternative (DOSA) was first passed by the Washington State legislature in 1995. DOSA was then revised in 1999 and is sometimes referred to as DOSA 2. Eligibility for the sentencing alternative was expanded under the revised DOSA law.

The purpose of this report is to provide the reader with an understanding of the demographics and outcomes of offenders sentenced under the revised DOSA 2 (hereafter, referred to as DOSA). This report includes offenders sentenced to DOSA from August 1999 through July 2004.

The intent of the legislation was two-fold. It was an attempt to reduce the fiscal burden on Department of Corrections' resources by allowing non-violent drug offenders to serve part of their sentence in prison and the remainder in the community. DOSA was also an effort to provide offenders with chemical dependency treatment in order to reduce recidivism.

Eligibility requirements for offenders sentenced under DOSA include (RCW 9.94A.660):

- Conviction of a felony in which the Superior Court judge determines chemical dependency as a factor in the offense, but can not be a violent or sex offense.
- The offender can not have prior violent or sex offenses. This includes out-of-state and juvenile convictions.
- The offender is convicted for a violation of the Uniform Controlled Substances Act (RCW 69.5).
- The offender is not subject to a deportation order.

DOSA allows a judge to waive a sentence within the standard range and impose a sentence that is one half of the midpoint of the standard range. While in prison, an offender sentenced under DOSA must undergo a substance abuse evaluation and participate in a chemical dependency treatment program. DOSA offenders released from prison must serve the remainder of the midpoint of their sentence on community custody. While on community custody, DOSA offenders must participate in a chemical dependency program, must obey all crime-related prohibitions ordered by the judge, and are required to submit to urinalysis testing. If an offender violates any of the conditions of their sentence, the Department holds a violation hearing. Offenders found guilty of a violation can have their DOSA sentences revoked and must serve the remainder of their sentence in prison.

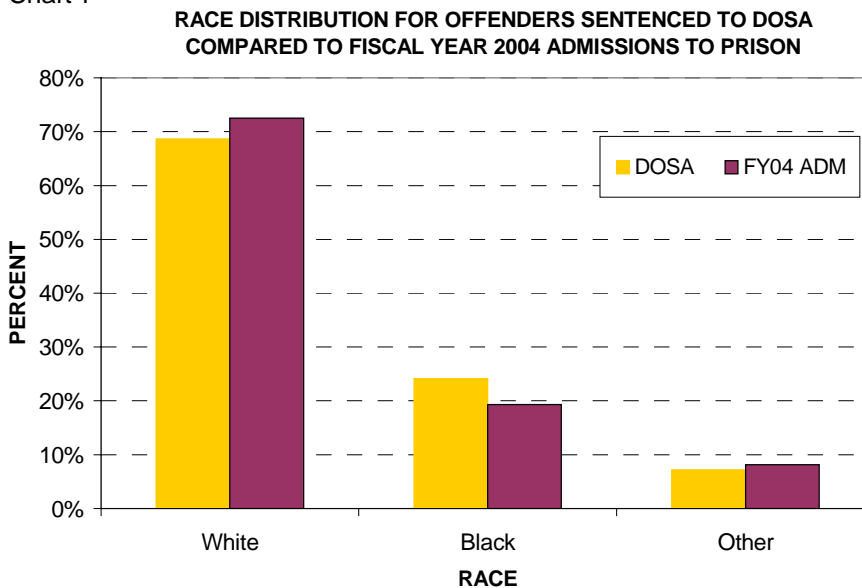
DEMOGRAPHICS

There were a total of 7,258 DOSA sentences from August 1999 to July 2004. The highest use of DOSA sentences was in 2001, which accounts for 24 percent of all the DOSA sentences during this time period. The use of DOSA sentences has decreased since that time. Some offenders were sentenced to DOSA multiple times within the period of study. A total of 6,342 offenders received a DOSA sentence from August 1999 to July 2004. There were 5,601 offenders who received DOSA once, 629 offenders received DOSA twice, and 112 offenders received DOSA three or more times.

The average age of a DOSA offender was 33.2 years old at admission, which was also the average age of offenders admitting to prison during Fiscal Year 2004. The youngest offender with a DOSA sentence was 17 years old, and the oldest offender with a DOSA sentence was 73 years old.

Seventy-nine percent of DOSA offenders were male offenders and 21 percent were female offenders. Females received DOSA sentences at a higher rate than males when compared to the admissions to prison during Fiscal Year 2004. In Fiscal Year 2004, 14 percent of the offenders admitted to prison were female and 86 percent were male.

Chart 1

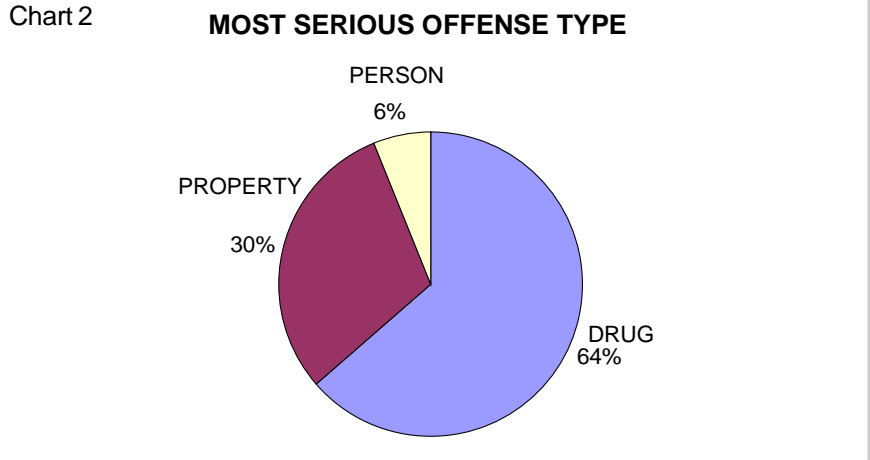


There is a slight difference in race categories for DOSA offenders compared to the Fiscal Year 2004 admissions to prison (See Chart 1). Sixty-nine percent of the DOSA offenders were white compared to 71 percent of the admissions to prison. Twenty-four percent of the offenders who received DOSA were black compared to 21 percent of those who admitted to prison.

SENTENCES IMPOSED

Offenders sentenced under DOSA do not necessarily have to be convicted of a drug offense. Sixty-four percent of the DOSA sentences were a drug offense, 30 percent were a property offense, and 6 percent were a person offense (See Chart 2).

Chart 2



Fifty-two percent of the DOSA sentences were for offenders who had not been in a DOC facility prior to the DOSA sentence. Forty-eight percent of the DOSA sentences were for offenders who had previously been in a DOC facility before the DOSA sentence.

DOSA sentences are used most often in King County, which had 38 percent of the DOSA sentences, whereas it had only 22 percent of the admissions to prison (See Chart 3). It also appears that all other counties combined underutilized DOSA compared to the percent of sentences coming out of the Superior Court, and admissions to prison that they account for.

TREATMENT

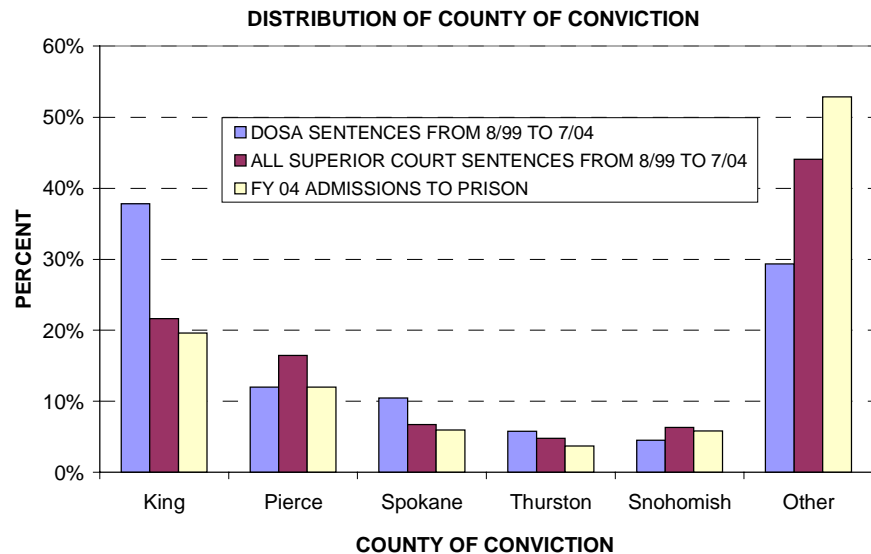
DOSA offenders are required to receive chemical dependency treatment at some point during their sentence. Types of treatment include intensive outpatient, intensive inpatient, and long term residential. Offenders receive treatment while in prison and also outpatient continuing care in the community. DOSA offenders are given priority for treatment over non-DOSA offenders. Those who fail to complete treatment are subject to revocation.

The Washington State Institute for Public Policy (Institute) did research to determine whether or not DOSA offenders were getting treatment.¹ They found that 88 percent of the 1,883 DOSA offenders had received treatment and 75 percent of the offenders completed treatment. The majority of those offenders received Intensive Outpatient treatment. Results also showed that 49 percent of the DOSA offenders received outpatient treatment in the community and 20 percent completed outpatient treatment.

RELEASES

As of July 31, 2004, there were 1,360 DOSA offenders in prison. The average time served in prison for offenders sentenced under DOSA was 9.4 months. The maximum time spent in prison by an offender was 43 months and the minimum time spent in prison was 0 days because some DOSA offenders completed their confinement time while in county jail. The average length of stay for offenders releasing from prison in Fiscal Year 2004 was 13 months.

Chart 3



RECIDIVISM

Webster defines recidivism as “return to a previous pattern of behavior, especially to return to criminal habits”. There are several different levels of failure that can be measured. First, violation behavior of DOSA offenders was analyzed. Second, DOSA offenders returning to prison was analyzed.

Violations

Violations were counted in two different methods: Stipulated Agreements and Community Custody violations. Stipulated Agreements are used as an alternative to a formal DOC hearing and were counted as violation behavior. The offender must admit to non-compliant behavior for a stipulated agreement to be used. The Community Corrections Officer (CCO) must also take into account the offender's risk level, violation history, and the seriousness of the violation when applying a Stipulated Agreement. Community Custody hearings with a guilty finding were also counted as violation behavior. Community Custody violations require a formal DOC hearing.

Table 1

| STIPULATED AGREEMENT WITHIN ONE YEAR OF RELEASE | | | | | |
|--|----------|------------------------------------|------|----------------------|--------------------|
| RELEASE YEAR | RELEASED | OFFENDERS WITH A STIP AGREEMENT | | # OF STIP REPORTS | # OF VIOL TYPES |
| | N | N | % | N | N |
| 2000 | 311 | 77 | 24.8 | 159 | 624 |
| 2001 | 1,235 | 331 | 26.8 | 673 | 2,382 |
| 2002 | 1,520 | 389 | 25.6 | 775 | 2,271 |
| TOTAL | 3,066 | 797 | 26.0 | 1,607 | 5,277 |

Both types of violations were counted separately here; however, there is often an interaction between Stipulated Agreements and Community Custody violations. An offender can receive a Stipulated Agreement and if they do not comply with the agreement, a CCO can then follow-up with a Community Custody violation. Only Stipulated Agreements and Community Custody violation hearings occurring within one year of the offender's release from prison were counted in the analysis.

Table 1 shows that twenty-six percent of the DOSA offenders who were released from prison had a Stipulated Agreement within one year of release. These 797 offenders violated 1,607 times for a total of 5,277 violation types.

Nearly 40 percent of all the Stipulated Agreements received were for using a controlled substance. The second most common violation was for failure to report (See Table 2).

Table 2

| STIPULATED AGREEMENT VIOLATION TYPE WITHIN ONE YEAR OF RELEASE | | |
|---|--------|---------|
| VIOLATION TYPE | NUMBER | PERCENT |
| USING CONTROLLED SUBSTANCE | 2,054 | 38.9 |
| FAILING TO REPORT | 753 | 14.3 |
| FAILURE TO PAY LFOS | 671 | 12.7 |
| NON-PARTICIPATION IN TREATMENT/COUNSELING | 450 | 8.5 |
| UNAPPROVED EMPLOYMENT/RESIDENCE CHANGE | 172 | 3.3 |
| DID NOT ABIDE URINE OR BLOOD ANALYSIS MONITORING | 158 | 3.0 |
| TREATMENT VIOLATION | 138 | 2.6 |
| CONSUMING ALCOHOL | 132 | 2.5 |
| NON-COMPLIANCE WITH CRIME RELATED PROHIBITIONS | 119 | 2.3 |
| POSSESS CONTROLLED SUBSTANCE | 98 | 1.9 |
| VIOLATION OF PREVIOUS SANCTION | 74 | 1.4 |
| COURT ORDERED IMPOSITIONS | 65 | 1.2 |
| ABIDE DOC IMPOSED SANCTIONS | 57 | 1.1 |
| ALL OTHER STIPULATED AGREEMENTS | 336 | 6.4 |
| TOTAL | 5,277 | 100 |

Table 3 shows that 44.3 percent of all DOSA offenders releasing from prison between 2000 and 2002 had a Community Custody violation with a guilty finding within one year of release. An offender can have multiple violations adjudicated per hearing. Furthermore, an offender can have a violation more than once while they are on supervision. There were 1,359 offenders with a violation, who produced 2,230 violation hearings for a total of 13,454 violation types.

More than 20 percent of all the Community Custody violations were for failure to report (See Table 4). The second most common violation, 12.2 percent of the violations, was for using a controlled substance.

Offenders receive sanctions for violation behavior. Sanctions can include increased reporting, treatment, confinement, or a revocation of the DOSA sentence.

Returns to Prison

A DOSA offender can return to prison for several reasons. First, the offender can return to prison because the DOSA sentence was revoked due to a technical violation. If a DOSA sentence is revoked, the offender must serve the time remaining on the sentence in prison. Second, the offender can return to prison because the DOSA sentence was revoked in addition to the offender having received a new felony conviction. Finally, an offender can return to prison for a new felony conviction with no sentence revocation.

Regardless of offense or sentence type, research shows that 10 percent of offenders releasing from a Washington State facility return to prison within one year of release.²

Table 3

| COMMUNITY CUSTODY VIOLATION WITHIN ONE YEAR OF RELEASE | | | | | |
|---|-----------------------|---|---------------------------------------|----------------------------------|--|
| RELEASE YEAR | RELEASED N | OFFENDERS WITH A CC VIOLATION N % | # OF CC VIOL REPORTS N | # OF VIOL TYPES N | |
| 2000 | 311 | 125 40.2 | 215 | 1,401 | |
| 2001 | 1,235 | 460 37.2 | 712 | 5,375 | |
| 2002 | 1,520 | 774 50.9 | 1,303 | 6,678 | |
| TOTAL | 3,066 | 1,359 44.3 | 2,230 | 13,454 | |

Table 4

| COMMUNITY CUSTODY VIOLATION TYPE WITHIN ONE YEAR OF RELEASE | | |
|--|---------------|----------------|
| VIOLATION TYPE | NUMBER | PERCENT |
| FAILING TO REPORT | 2,754 | 20.5 |
| USING CONTROLLED SUBSTANCE | 1,647 | 12.2 |
| FAILURE TO PAY LFOS | 1,604 | 11.9 |
| NON-PARTICIPATION IN TREATMENT/COUNSELING | 1,414 | 10.5 |
| UNAPPROVED EMPLOYMENT/RESIDENCE CHANGE | 1,114 | 8.3 |
| DID NOT ABIDE URINE OR BLOOD ANALYSIS MONITORING | 860 | 6.4 |
| VIOLATION OF PREVIOUS SANCTION | 597 | 4.4 |
| VIOLATION OF AFFIRMATIVE CONDUCT REQUIREMENT | 563 | 4.2 |
| TREATMENT VIOLATION | 541 | 4.0 |
| ESCAPE | 531 | 3.9 |
| POSSESS CONTROLLED SUBSTANCE | 335 | 2.5 |
| FAILURE TO DO DOSA 2 PROGRAM | 289 | 2.1 |
| CONSUMING ALCOHOL | 150 | 1.1 |
| ALL OTHER VIOLATIONS | 1,055 | 7.8 |
| TOTAL | 13,454 | 100 |

Table 5 illustrates the number of DOSA offenders who returned to prison by the different types of return. Overall, 861 DOSA offenders, or 21.4 percent, returned to prison within one year of release: 8.2 percent were for a technical revocation, 8.1 percent were for a revoke with a new felony conviction, 5.1 percent had only a new felony.

Table 5

| RETURNS TO PRISON BY TYPE OF RETURN FOR DOSA OFFENDERS | | | | | | | | | | |
|--|------------|------------------------------|------------------------------------|------|--------|------|--------|-----|--------|-----|
| RELEASE YEAR | # RELEASED | TYPE OF RETURN | PERCENT WHO RETURNED TO PRISON IN: | | | | | | | |
| | | | Year 1 | | Year 2 | | Year 3 | | Year 4 | |
| | | | N | % | N | % | N | % | N | % |
| 2000 | 311 | Revoke for Technical | 13 | 4.2 | 6 | 1.9 | 6 | 1.9 | 1 | 0.3 |
| | | Revoke for New Felony | 2 | 0.6 | 13 | 4.2 | 5 | 1.6 | 1 | 0.3 |
| | | No Revoke - Return to Prison | 41 | 13.2 | 31 | 10.0 | 18 | 5.8 | 9 | 2.9 |
| | | TOTAL RETURNED | 56 | 18.0 | 50 | 16.1 | 29 | 9.3 | 11 | 3.5 |
| 2001 | 1,235 | Revoke for Technical | 47 | 3.8 | 95 | 7.7 | 31 | 2.5 | | |
| | | Revoke for New Felony | 57 | 4.6 | 109 | 8.8 | 36 | 2.9 | | |
| | | No Revoke - Return to Prison | 104 | 8.4 | 61 | 4.9 | 46 | 3.7 | | |
| | | TOTAL RETURNED | 208 | 16.8 | 265 | 21.5 | 113 | 9.1 | | |
| 2002 | 1,520 | Revoke for Technical | 138 | 9.1 | 140 | 9.2 | | | | |
| | | Revoke for New Felony | 167 | 11.0 | 143 | 9.4 | | | | |
| | | No Revoke - Return to Prison | 49 | 3.2 | 45 | 3.0 | | | | |
| | | TOTAL RETURNED | 354 | 23.3 | 328 | 21.6 | | | | |
| 2003 | 966 | Revoke for Technical | 133 | 13.8 | | | | | | |
| | | Revoke for New Felony | 99 | 10.2 | | | | | | |
| | | No Revoke - Return to Prison | 11 | 1.1 | | | | | | |
| | | TOTAL RETURNED | 243 | 25.2 | | | | | | |
| TOTAL | 4,032 | Revoke for Technical | 331 | 8.2 | 241 | 6.0 | 37 | 0.9 | 1 | 0.0 |
| | | Revoke for New Felony | 325 | 8.1 | 265 | 6.6 | 41 | 1.0 | 1 | 0.0 |
| | | No Revoke - Return to Prison | 205 | 5.1 | 137 | 3.4 | 64 | 1.6 | 9 | 0.2 |
| | | TOTAL RETURNED | 861 | 21.4 | 643 | 15.9 | 142 | 3.5 | 11 | 0.3 |

The Institute has done research on DOSA recidivism rates and found that DOSA offenders had a lower recidivism rate than DOSA-eligible offenders who did not receive a DOSA sentence.¹ Twenty percent of the DOSA offenders received a new felony conviction within two years of release compared to nearly 30 percent of the comparison group. This is consistent with the information presented in Table 5. Approximately 23.2 percent of DOSA offenders had a new felony conviction (revoke for new felony and no revoke-return to prison) within two years of release.

Chart 4

Chart 4 shows that 38 percent of all the returns to prison within one year were for a technical revocation and 62 percent had a new felony conviction

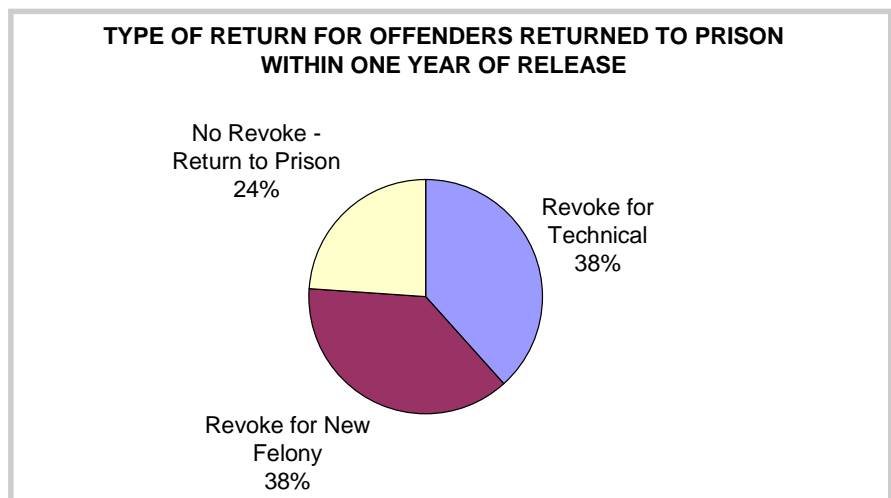
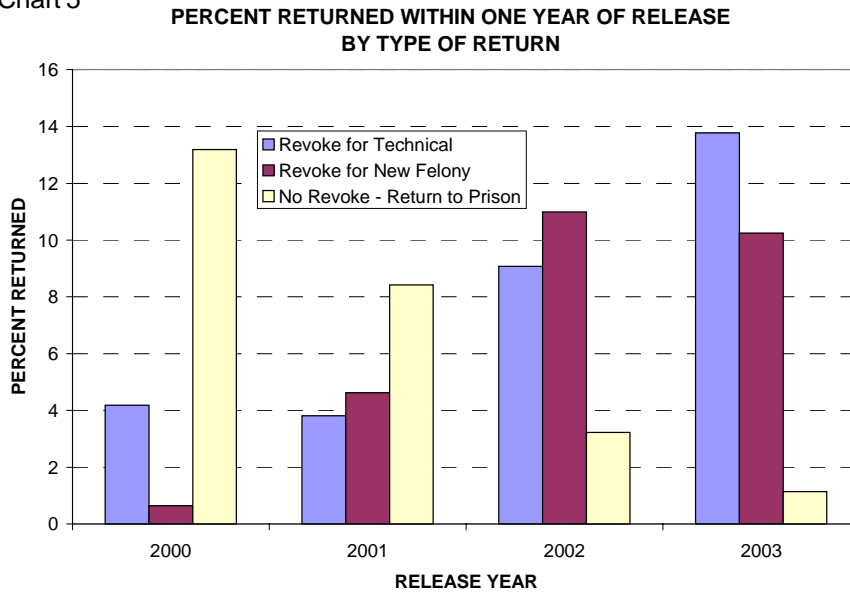


Chart 5



The number of DOSA offenders whose sentences are revoked for technical reasons has gone up over the last four years. Revocations with a new felony conviction have also gone up. It had been speculated that Department of Corrections staff was not revoking DOSA sentences if offenders committed a new crime, rather, they just received a new sentence for the new crime. Chart 5 demonstrates a change in practice and policy not offender behavior. Over time, we see that staff began revoking sentences where a new crime occurred.

COST-BENEFIT FINDINGS

The Institute was mandated by the legislature to conduct a cost-benefit analysis of DOSA and found the following:

- DOSA sentences reduced Department of Corrections prison costs because DOSA offenders were spending part of their sentence in the community.
- Community custody costs were increased for property offenders receiving a DOSA sentence. However, community custody costs were decreased for drug offenders receiving a DOSA sentence.
- Reduced cost on the criminal justice system due to a reduced recidivism rate. Drug offenders who received DOSA had lower recidivism rates than property offenders who received DOSA.
- An increased cost for the Department of Corrections for drug treatment. DOSA offenders received approximately \$1,300 more in chemical dependency treatment.
- An increase in future criminal justice system costs due to lower incarceration rates because of the use of DOSA. The Institute has found that decreased incarceration rates lead to higher crime rates.

Overall, the Institute found that DOSA sentences used on drug offenders generates about \$8.50 of benefit per dollar of cost. When DOSA sentences are used on property offenders, there is less than \$1.00 of benefit per dollar of cost.³

SUMMARY

The use of DOSA sentencing peaked during 2001, but is still used as an important sentencing option particularly in King County. Drug offenders were most likely to have received this sentencing option; however, property and person crime offenders also received DOSA sentences. Female and black offenders received DOSA sentences at a slightly higher proportion when compared to the distribution of female and black offenders admitted to prison.

One of the unique components of DOSA is that offenders are supposed to receive chemical dependency treatment. Research has shown that the majority of DOSA offenders do receive treatment and a large portion complete treatment.

Various outcome measures were analyzed and show that DOSA offenders return to prison at a higher rate than offenders regardless of offense or sentence type. However, research has also shown DOSA offenders recidivate at a lower rate than DOSA-eligible offenders who do not receive a DOSA sentence. A large proportion of DOSA offenders who return to prison do not have a new felony, but do have a technical revocation.

Research has shown that drug offenders receiving DOSA have a higher dollar of benefit per cost than property offenders receiving DOSA.

¹ Phipps, Polly and Bill Luchansky (2003). "Drug Offender Sentencing Alternative (DOSA): Treatment and Supervision." Washington State Institute for Public Policy. A presentation to the Sentencing Guidelines Commission.

² Recidivism Briefing Paper No. 22 (2005). Washington State Department of Corrections. Budget, Research, and Strategic Planning Office.

³ Aos, Steve, Polly Phipps, and Robert Barnoski (2005). "Washington's Drug Offender Sentencing Alternative: An Evaluation of Benefits and Costs." Washington State Institute for Public Policy.